

### § 6.303

### 40 CFR Ch. I (7–1–14 Edition)

(d) If, prior to completion of the environmental review for a project, the Responsible Official receives notification, that the applicant is proposing to or taking an action that would result in significant impacts or would limit alternatives, the Responsible Official must notify the applicant promptly that EPA will take appropriate action to ensure that the objectives and procedures of NEPA are achieved (see 40 CFR 1506.1(b)). Such actions may include withholding grant funds or denial of permits.

(e) The Responsible Official must begin the NEPA review as soon as possible after receiving the applicant's EID or draft EA. The Responsible Official must independently evaluate the information submitted and be responsible for its accuracy (see 40 CFR 1506.5).

(f) At the request of an applicant and at the discretion of the Responsible Official, an applicant may prepare an EA or EIS and supporting documents or enter into a third-party contract pursuant to § 6.303.

(g) The Responsible Official must review, and take responsibility for the completed NEPA documents, before rendering a final decision on the proposed action.

#### § 6.303 Third-party agreements.

(a) If an EA or EIS is to be prepared for an action subject to subparts A through C of this part, the Responsible Official and the applicant may enter into an agreement whereby the applicant engages and pays for the services of a third-party contractor to prepare an EA or EIS and any associated documents for consideration by EPA. In such cases, the Responsible Official must approve the qualifications of the third-party contractor. The third-party contractor must be selected on the basis of ability and absence of any conflict of interest. Consistent with 40 CFR 1506.5(c), in consultation with the applicant, the Responsible Official shall select the contractor. The Responsible Official must provide guidance to the applicant and contractor regarding the information to be developed, including the project's scope, and guide and participate in the collection, analysis, and presentation of the infor-

mation. The Responsible Official has sole authority for final approval of and EA or EIS.

(1) The applicant must engage and pay for the services of a contractor to prepare the EA or EIS and any associated documents without using EPA financial assistance (including required match).

(2) The Responsible Official, in consultation with the applicant, must ensure that the contractor is qualified to prepare an EA or EIS, and that the substantive terms of the contract specify the information to be developed, and the procedures for gathering, analyzing and presenting the information.

(3) The Responsible Official must prepare a disclosure statement for the applicant to include in the contract specifying that the contractor has no financial or other interest in the outcome of the project (see 40 CFR 1506.5(c)).

(4) The Responsible Official will ensure that the EA or EIS and any associated documents contain analyses and conclusions that adequately assess the relevant environmental issues.

(b) In order to make a decision on the action, the Responsible Official must independently evaluate the information submitted in the EA or EIS and any associated documents, and issue an EA or draft and final EIS. After review of, and appropriate changes to, the EA or EIS submitted by the applicant, the Responsible Official may accept it as EPA's document. The Responsible Official is responsible for the scope, accuracy, and contents of the EA or EIS and any associated documents (see 40 CFR 1506.5).

(c) A third-party agreement may not be initiated unless both the applicant and the Responsible Official agree to its creation and terms.

(d) The terms of the contract between the applicant and the third-party contractor must ensure that the contractor does not have recourse to EPA for financial or other claims arising under the contract, and that the Responsible Official, or other EPA designee, may give technical advice to the contractor.